

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Promoting Technological Solutions to Combat)	GN Docket No. 13-111
Contraband Wireless Device Use in Correctional)	
Facilities)	

COMMENTS OF VERIZON WIRELESS

Verizon Wireless hereby comments in response to the Federal Communications Commission’s (“Commission”) Notice of Proposed Rulemaking considering rule changes to promote solutions to combatting the use of contraband devices in correctional facilities.¹ In the Notice, the Commission proposes to adopt rule changes to streamline and expedite the approval processes for providers of managed access system and other solutions (“Solutions Providers”)² to combat the use of contraband devices and to require carriers to terminate service to devices identified by prison officials as being contraband.

Verizon Wireless supports a federal regime, pursuant to the Commission’s exclusive federal authority over spectrum licensing, to combat the problem of contraband device use in

¹ *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, Notice of Proposed Rulemaking, GN Docket No. 13-111, 28 FCC Rcd 6603 (2013) (“Notice”).

² Managed access systems, in general, install and operate a wireless network within a correctional facility that captures wireless transmissions and blocks transmissions from devices identified as contraband. The other most common solution is detection, which captures identifying information from devices identified as contraband within the prison. Once identified, detection system providers seek either to help prison officials locate and confiscate the devices or to have service to those devices terminated. *See* Notice at ¶¶ 14-17.

correctional facilities. As discussed below, Verizon Wireless supports the proposed rule changes to expedite the licensing approval process for Solutions Providers, provided that the Commission makes explicit the requirement in practice that STA applicants obtain licensee approval prior to the Commission granting the STA. Verizon Wireless also agrees that a process is needed to deal with requests by prison officials or their agents to terminate service to contraband devices. However, the process proposed by Cell Antenna and embraced in part by the Commission raises a number of concerns and questions that cannot be answered at this time given the lack of experience with such requests and information about the volume of termination requests carriers might receive. For this reason, Verizon Wireless believes that service termination requests should be acted upon by carriers pursuant to court orders.

I. VERIZON WIRELESS SUPPORTS THE COMMISSION’S PROPOSED RULE CHANGES TO EXPEDITE APPROVAL OF SOLUTIONS PROVIDERS’ SYSTEMS.

In the Notice, the Commission proposes a number of rule changes designed to streamline and expedite the process for approving lease agreements and STA requests for Solutions Providers’ systems. In particular, the Commission proposes to (1) process long-term *de facto* and spectrum manager leases immediately for managed access systems; (2) adopt a presumption that managed access service providers shall be treated as PMRS; and (3) process STA requests for managed access providers immediately, without prior public notice.³

Verizon Wireless notes, at the outset, that the Notice suggests that the streamlining proposals would apply only to managed access system providers.⁴ Contrary to this suggestion, at

³ Notice at ¶¶ 36-51.

⁴ See *id.* at ¶ 16 (describing Detection systems as using passive, receive-only technology) and ¶¶ 24-51 (stating repeatedly that the streamlining proposals are for managed access systems).

least some, and possibly many, detection systems transmit RF and therefore require either a lease agreement or STA.⁵ Accordingly, the Commission should make clear in any new rules it adopts that the leasing and STA request streamlining measures would apply to detection system operators that transmit RF as well as managed access system providers.

Verizon Wireless supports, with one caveat discussed below, the Commission's proposal to streamline the approval process for leases, PMRS designations and STAs as set forth in the Notice. These changes should not hinder Commission review of the licensing and approval process and will benefit the public by speeding approval and deployment of managed access and detection systems. With respect to the STA streamlining proposal, however, Verizon Wireless is concerned that the streamlined process might eliminate the Commission's practice of asking the underlying CMRS licensee to review and approve the proposed STA prior to grant. The Commission should not only keep that practice in place, but should also modify its rules explicitly to require that Solutions Providers STA requests include consent letters from each affected CMRS licensee prior to the STA being granted. Licensee approval is the process by which carriers review the technology to be used and ensure that the technology and how it is deployed will not harm licensee networks. Given that Solutions Providers typically engage with the underlying licensees well in advance of the STA request being filed and that licensee consent letters are already part of the current process in practice, making this requirement explicit in the rules should not impose any burdens or delays on the approval process.

⁵ See FCC File No. 0030-EX-PL-2013 (Cell Antenna STA request file for a detection system at a Florida prison).

II. CMRS PROVIDERS SHOULD NOT BE LIABLE WHEN MANAGED ACCESS PROVIDERS BLOCK OR DEGRADE 911 SERVICE TO CONTRABAND DEVICES.

In the Notice, the Commission seeks comment on whether managed access providers should be required to provide access to 911 and E911 for contraband devices.⁶ Verizon Wireless takes no position as to whether the Commission should or should not require managed access providers to provide 911 and E911 access to contraband devices. Verizon Wireless is aware of at least one situation where inmates made harassing 911 phone calls upon learning that their ability to make other calls was blocked by a managed access system. On the other hand, there may be situations when allowing 911 access, even to contraband devices, is beneficial. Regardless of whether managed access provider spectrum lessees are required to complete 911 calls from contraband devices or block such calls, or otherwise required to comply with the Commission's basic and enhanced 911 rules, the Commission should modify its rules so it is expressly clear that the lessor CMRS providers will not be liable for violations of those rules in circumstances where the lessee managed access provider blocks or degrades the 911 call or the ANI and ALI associated with the call.

III. THE COMMISSION SHOULD REQUIRE CONTRABAND DEVICE TERMINATIONS BE DONE PURSUANT TO COURT ORDERS.

In the Notice, the Commission proposes to adopt certain aspects of a Cell Antenna proposal to require CMRS licensees to terminate service to contraband devices pursuant to a qualifying request from an authorized party. It seeks comment on the details of the process for sending, receiving and acting on requests to terminate service, including the appropriate time interval for providers to act on requests to terminate service once those requests are received. It

⁶ Notice at ¶ 46.

also seeks comment on the costs and burdens associated with establishing carrier processes for terminating service to contraband devices.⁷

Requests to terminate service are most likely to come from detection system operators that otherwise have no means of preventing contraband devices from operating. However, such requests may also come from managed access system providers either as a means of enhancing the services provided or because there may be gaps in the managed access system network within the facility where prisoners can make calls. As compared to managed access systems that have been operational for several years, detection systems are only beginning to be deployed. In fact, at this time, Verizon Wireless is only aware of one operational detection system and has only received one request to terminate service to contraband devices. In considering that request, Verizon Wireless has identified a number of concerns that must be addressed before it can be comfortable receiving, processing, and acting on such requests. While Verizon Wireless agrees with the Commission that a process is needed for service termination requests, it is concerned that the dearth of experience with detection systems leaves it unable to answer many of the questions asked by the Commission in the Notice towards establishing a termination process. For these reasons, Verizon Wireless believes that service terminations to contraband devices should be done, at least at the outset, pursuant to court orders.

A. There Is Insufficient Information and Experience with Service Termination Requests.

In Verizon Wireless' limited experience in dealing with service termination requests for contraband devices, it has identified any number of issues and concerns that coincide with requests for comment in the Notice. Carriers, the Commission, and Solutions Providers need

⁷ *Id.* at ¶¶ 56-73.

more experience and time to work through these issues before the Commission can consider the process proposed in the Notice.

1. Accuracy of Identification

Carriers need accurate information if they are to process and execute termination requests quickly and efficiently. In the Notice, the Commission seeks comment regarding whether providing carriers the MIN, ESN, and either IMEI or IMSI is sufficient for a provider to identify the device in its systems. The Commission also asks whether it should establish minimum performance standards for detection and other systems to meet.⁸

In Verizon Wireless' experience receiving a sample list of contraband devices from one detection provider and a request to terminate 911 access to devices from a managed access provider, it determined that a significant number of the devices purported to be Verizon Wireless subscriber devices were not Verizon Wireless subscriber devices. Verizon Wireless believes this mis-identification was caused by the Solutions Providers failing properly to determine which carrier own's the MIN that the Solutions Provider system is capturing. Accurately identifying the carrier associated with the MIN will save carriers time and effort and will shorten the time it takes carriers to execute termination requests. In addition, because carrier records are kept by subscriber MDN, rather than MIN, Solutions Providers should also be required to provide the device MDN to carriers in their termination requests. Without having the MDN, carriers expend more time and resources verifying the subscriber, making processing service termination requests slower and more costly.

To help resolve this and other identification accuracy issues, the Commission should review and certify managed access and detection systems. This process should, at minimum,

⁸ *Id.* at ¶¶ 62-64.

certify (1) the system only captures information about devices that are contraband and operating within the confines of the prison; (2) the system captures the information (MIN, MDN, ESN, and IMEI or IMSI) necessary to accurately identify both the device and the proper serving carrier; and (3) the operator of the system has mechanisms in place to protect the information gathered prior to and while transmitting it to carrier networks. In the process recommended by Verizon Wireless, where termination requests would be executed pursuant to court orders, Commission certification would be beneficial for prison officials to demonstrate to the court that the identification of the device was accurate.

2. Security of Information Provided to Carriers

The Commission seeks comment about how termination requests should be transmitted to carriers and who should be allowed to transmit such requests.⁹ Verizon Wireless has concerns about the security of information about devices to be terminated, particularly if those requests are transmitted via email or facsimile as recommended by Cell Antenna. Such requests should only be transmitted by authorized and verified persons and through secure transmission paths. Fortunately, Verizon Wireless (and presumably other carriers as well) has a secure web portal established to receive requests for various actions from law enforcement agencies pursuant to court orders. Under the process recommended by Verizon Wireless, these same secure portals could be used to receive court-ordered termination requests.

3. Timing of Executing Termination Requests

Noting that Cell Antenna requested that carriers process act on termination requests in one hour, the FCC seeks comment regarding how quickly carriers should execute termination

⁹ *Id.* at ¶¶ 65-69.

requests.¹⁰ How quickly carriers can verify and execute termination requests depends on a number of variables that cannot be known at this time. For example, the time to complete action will be shorter if the information identifying the device and the carrier is accurate. In addition, the time interval will be affected by the number of requests each carrier receives, the number of devices included in each request, and the time of day the requests are received. Because detection systems and termination requests by detection and other providers are in their infancy, carriers have no way of knowing the types of carrier resources that will be needed to execute such requests and how quickly such requests can be executed. Accordingly, it is far too early for the Commission to mandate a particular time interval for processing service termination requests.

4. Liability Protection

The Commission seeks comment on whether it should absolve carriers of liability for any rule violation in conjunction with service terminations in accordance with the rules it adopts. It also asks whether such action is necessary given carriers' ability to protect against liability in their customer service agreements.¹¹ Potential liability, both in terms of Commission rule violations and private lawsuits, is a significant concern for carriers in executing service termination requests. While the Commission can insulate carriers from Commission rule violations, and Verizon Wireless customer service agreements include language reserving the company's right to terminate service for unlawful activity, there remains a threat for liability in the event the device terminated proves not to be contraband. In Verizon Wireless' view, the best way to insulate the company from liability for erroneous terminations is to require terminations to be executed pursuant to court orders. Being able to argue that an erroneous termination was

¹⁰ *Id.* at ¶ 73.

¹¹ *Id.* at ¶ 71.

done pursuant to a court order would help carriers defend against any private lawsuit brought by a customer whose service was terminated in error.

B. The Commission Should Require that Service Terminations for Contraband Devices Be Done only Pursuant to a Court Order.

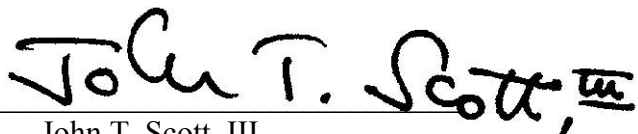
Given the lack of experience with and information about service termination requests, it would be premature for the Commission to adopt the process for transmitting, processing and executing such requests proposed in the Notice at this time. As discussed above, carriers already have processes in place for receiving and executing court orders with respect to subscriber accounts. Those processes resolve most of the issues and concerns raised by the Commission and held by carriers with respect to service terminations. Prison officials should also have experience and be comfortable with requesting and obtaining court orders. For these reasons, the Commission should require that contraband device service terminations be done pursuant to court orders. Should experience demonstrate that a court order process is too slow or overly burdensome on prison officials or their Solutions Providers, the Commission can revisit the issue and consider a different process once all parties gain more experience with service terminations and once more detection systems are deployed.

IV. CONCLUSION

Verizon Wireless supports the Commission's proposals to streamline the approval process for spectrum leases, PMRS designations, and STAs, provided that the Commission keeps the requirement that carriers approve of STA requests prior to granting STAs and makes that requirement explicit in the rules. At this time, there is not enough information about and experience with detection systems and service termination requests for the Commission to adopt the process for such requests proposed in the Notice. For this reason, the Commission should require that service termination requests be made only pursuant to court orders.

Respectfully submitted,

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